

**Christopher P. Wossilek**  
**10687 Addison Ct**  
**Highlands Ranch, CO 80126**  
**303-330-9942**  
**cwoss@protonmail.com**

**UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK**

<b>Christopher P. Wossilek, Phillip Wossilek</b>	}	<b>Case No.: 08-13555 (SCC)</b>
<b>vs.</b>		<b>(Jointly Administered)</b>
<b>Lehman Brothers Holdings INC., et al,</b>	}	<b>Docket # 60984</b>
<b>Debtors.</b>		

---

**CHRISTOPHER P WOSSILEK AND PHILLIP WOSSILEK MEMORANDUM OF LAW  
IN SUPPORT OF REX WU TO JOIN THEIR MOTION UNDER RULE 19(A) OF THE  
FEDERAL RULES OF CIVIL PROCEDURES**

---

Christopher P. Wossilek and Phillip Wossilek, submits this memorandum of law in support of Rex Wu's Joinder (ECF# 60988) as Plaintiff Under Rule 19(a) of the Federal Rules of Civil Procedure.

**PRELIMINARY STATEMENT**

On January 19<sup>th</sup>, 2021, Rex Wu submitted a letter to the Honorable Court (ECF #60976) requesting the Honorable Court to require Lehman Brothers Holdings to file the annual Important Covenants of Lehman Brothers Holdings Certificates upon default. The default occurred when LBHI declared bankruptcy. The purpose of the required certificates upon default is to have a clear understanding as to whether Lehman Brothers Holdings is in compliance with all the conditions and covenants applicable to it under the Guarantee. On January 28<sup>th</sup>, 2021, Christopher P Wossilek and Phillip Wossilek filed their Motion to Compel Filing of the Important Covenants of LBH Annual Certificates (ECF #60984). Rex Wu requested to join

motion ECF #60984. After discussion, Christopher P Wossilek does not object to the joinder. Phillip Wossilek also do not object to the joinder after consultation. A copy of the Joinder was served (ECF #60989) to the Debtor. Joining Rex Wu as a Plaintiff under 19(a) of the Federal Rules of Civil Procedures is appropriate because it will allow the court to complete relief regarding the “Motion to Compel Filing of the Important Covenants of LBH Annual Certificates.” Christopher P Wossilek and Phillip Wossilek further determined that the “Covenant Certificates” are required to be filed automatically upon default by Lehman Brothers Holdings as required by the ongoing execution of the “PLAN” and Bankruptcy Code 510(a) pertaining to the LBHI Capital Trust 3, 4, 5 and 6 Prospectuses after reading ECF #60976 and #60874 filed by Rex Wu. LBHI has failed to certify with the Honorable Bankruptcy Court and/or the LBHI Capital Trusts since the default totaling to over 10 missing certificates as required by the “PLAN”, LBHI CT Prospectuses 3, 4, 5 and 6 and Bankruptcy code 510(a). Joining Rex Wu will also enable the parties to obtain information efficiently regarding the failure of LBHI to file the “Covenant Certificates”, what LBHI subsidiary listed on the UK Litigation violated the Important Covenants of LBH and to what extent Lehman Brothers Holdings violated the Important Covenants of LBH and its effects on LBHI Capital Trusts 3, 4, 5 and 6. For all these reasons the Honorable Court should join Rex Wu as a Plaintiff.

I. LBHI’s violations of the Important Covenants of LBH and the Plan Administrator’s knowing violation of the Guarantee

As explained on ECF #60976 and 60984, LBHI have been possibly violating the Important Covenants of LBH for years. By not filing the “Covenant Certificates” LBHI is allowed to hide these violations since the inception of the bankruptcy. LBHI needs to show the court that they are not in violation of the Important Covenants of LBH by doing what they are required to do under the individual Prospectuses as ensured by the “PLAN” and enforced by Bankruptcy Code 510(a).

The enforcement sought in Compelling LBHI to file the “Covenant Certificates” is needed to stop any violative activities that resulted in violating the Important Covenants of LBH from the past to present. This type of error whether intentional or not needs to be corrected and the only way to ensure that LBHI is in compliance or to understand the extent of the violations is by requiring LBHI to file the “Covenant Certificates.” Rex Wu, Christopher P. Wossilek and Phillip Wossilek share common grievances and arguments as proven with ECF #60976 and #60984.

II. The Court Should Join Rex Wu as Plaintiff under Rule 19(a)

Rex Wu, Christopher P Wossilek and Phillip Wossilek share common grievances and arguments and all parties are seeking relief from the court to require LBHI to file the “Covenant Certificates” for each year a certificate was not filed since default. At the minimum a certificate needs to be file for YE 2019 and 2020 and with all future years to the allowed maximum of the 5-year extension granted by the court. Rule 19(a) of the Federal Rules of Civil Procedures are met. Rule 19(a) provides in pertinent part as follows:

A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if (1) in that person's absence, the court cannot accord complete relief among existing parties; or (2) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect the interest; or (ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest. If the person has not been so joined, the court shall order that person to be made a party.

Fed. R. Civ. P. 19(a). Rule 19(a)(1) “stress the desirability of joining those parties in whose absence the court would be obliged to grant partial or “hollow” rather than complete relief to the parties before the court.” Advisory Committee Notes to Fed. R. Civ. P. 19, 28 U.S.C. App., at 119.

Since Rex Wu, Christopher P Wossilek and Phillip Wossilek have similar interests, Joinder under Rule 19(a)(2) is also justified because if there is a disposition of the Motion to Compel the

Filing of the Important Covenants of LBH Annual Certificates may as practical matter impair or impede Rex Wu's ability to protect his interest.

### CONCLUSION

For all of the above reasons, Christopher P. Wossilek and Phillip Wossilek request that this court join Rex Wu as Plaintiff under Rule 19(a) of the Federal Rules of Civil Procedures.

Respectfully Submitted,

Dated this 12th day of February, 2021

/s/ Christopher P. Wossilek

Christopher P. Wossilek  
10687 Addison Ct  
Highlands Ranch, CO 80126

/s/ Phillip Wossilek

Phillip Wossilek  
6833 South Harvest Ct  
Aurora, CO 80016